



Cherine Foty

International Arbitration Practitioner

CONTACT DETAILS

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PRACTICE AND EXPERIENCE

2021-Present

Senior Associate, Covington & Burling LLP (Washington, D.C.)

Cherine Foty advises clients on a broad array of complex international commercial and investor-state arbitrations and non-judicial disputes relating to issues of ESG, business and human rights, and corporate social responsibility. She is a dually-qualified common law and civil law lawyer with particular experience in European-seated arbitrations.

Cherine's practice is focused on international commercial and investor-state arbitration under a range of arbitral rules and applicable laws. Cherine has specialized experience in the energy sector, regularly representing clients in gas pricing arbitrations, and in a variety of other industries. She has acted for both investors and states in investor-state arbitrations involving public and private international law. In addition, she has significant experience with conservatory and emergency measures and the enforcement and annulment of arbitral awards in state courts around the world. As a member of Covington's Business and Human Rights and ESG practices, Cherine advises clients on a diverse range of non-judicial disputes involving issues of human rights and environmental due diligence, global supply chains, and investor obligations. She assists companies in navigating the complex interplay between disputes, civil liability, reputational risk, external stakeholder engagement, greenwashing allegations, and shareholder claims. Cherine has represented clients in Specific Instance proceedings before OECD National Contact Points for Responsible Business Conduct involving due diligence obligations of companies and investors under the OECD Guidelines for Multinational Enterprises, and before the United Nations Human Rights Council Working Groups and Special Rapporteurs relating to issues of human rights, the environment, and climate change.

2015-2021

Senior Associate, Jones Day (Paris)

2014-2015

Associate, Lerins, Jobard & Chemla Avocats (Paris)

2011-2014

Professor of Law, Université Paris 1 Panthéon-Sorbonne (Paris)

Professor of Law, Université Paris 2 Panthéon-Assas (Paris)

Faculty Researcher, Institute of Comparative Law (Paris)

BAR MEMBERSHIP

New York, Paris, DC

NATIONALITY

American & French

LANGUAGES

English, French, Spanish
Arabic, Portuguese

EDUCATION

- 2011** **LL.M. in French and European Law**
Université Paris 1 Panthéon-Sorbonne – Sorbonne Law School (Paris)
- 2010** **Fulbright Fellow - France**
- 2010** **Juris Doctor**
The George Washington University Law School (Washington, D.C.)
Presidential Merit Scholar (2007-2010)
- 2007** **Bachelor of Arts**
University of Michigan (Ann Arbor, Michigan, United States)
Triple Major in Political Science, Spanish Literature and Anthropology
Dean's List, Michigan Scholar Award, Martin Luther King Jr. Scholarship among others

SELECT EXPERIENCE

- Counseled a multinational company in an **OECD National Contact Point Specific Instance proceeding** regarding alleged non-observance of provisions of the OECD Guidelines for Multinational Enterprises related to due diligence obligations arising out of business relationships.
- Advising multinational companies on issues of **French Law** in commercial, civil, human rights, and environmental proceedings.
- Representing a global luxury goods supplier in a Brussels-seated **ICC arbitration** arising under a license agreement governed by French law.
- Advising a European gas buyer in consecutive **price review negotiations** against a North African seller under the terms of two long-term gas supply contracts, related to issues arising from the COVID-19 pandemic, with a cumulative value in dispute in excess of \$500 million.
- Counseled a multinational company in a **United Nations Human Rights Council Special Communications complaint procedure** involving issues of ESG, climate change, and net-zero commitments.
- Counseled a multinational company in an **OECD National Contact Point Specific Instance proceeding** regarding due diligence in supply chains and alleged non-compliance with humans rights and certain other provisions of the OECD Guidelines for Multinational Enterprises.
- Represented a company in an **annulment proceeding of an investment treaty arbitral award before the Paris Court of Appeal**.
- Represented a North American mining company in an **ICDR arbitration** arising from cost plus construction, project management, and construction management agreements in connection with the construction of a mining project in Chile and Argentina.
- Represented a **biopharmaceutical company** in a New York-seated **ICC arbitration** under New York law.
- Represented a Middle Eastern state in two **ad hoc investment treaty arbitrations under the UNCITRAL Rules** concerning two bilateral investment treaties.
- Represented a major European natural gas producer in an **ad hoc multi-billion dollar gas price review arbitration** under the UNCITRAL Rules, seated in Stockholm, brought by an Eastern European state-owned gas utility company under a long-term gas supply agreement.
- Represented a U.S. pharmaceutical company on pre-award interest and costs allocation matters under the **JAMS Rules**, involving California law.
- Represented the California subsidiary of a Swiss parent company in an **ICDR arbitration** arising under several pharmaceutical manufacturing contracts governed by California law.
- Represented a U.S. company in post-award matters under the **JAMS Rules**, involving California contract and torts law.

- Represented a global luxury goods supplier in a New York-seated **ICC arbitration** arising under distribution agreements governed by New York law.
- Represented a major European natural gas producer against two Western European buyers in a **multi-million dollar ad hoc price review arbitration** under the Swedish Arbitration Act, seated in Stockholm.
- Assisted two Swiss companies and an American company in a **commercial ICC arbitration against a South American company** in a trademark and manufacturing process dispute subject to Swiss Law.
- Acted for a major European natural gas producer in an **ICC price review arbitration** against a North West European buyer under a long-term gas supply agreement, with claimed damages exceeding \$500 million, seated in Geneva.
- Acted as lead counsel on behalf of an Italian steel construction company in a successful **ICC arbitration for contract breach and damages** under the UNIDROIT Principles.
- Assisted a UAE MEP sub-contractor in a **DIFC-LCIA construction arbitration** against a Middle Eastern main contractor under UAE law.
- Represented a Middle Eastern cement company in **two post-M&A ICC arbitrations** involving a shareholder's agreement and a share purchase agreement.
- Represented a Belgian company in a **joint venture banking shareholding ICC arbitration**.
- Provided legal advice to a major American gas producer on the interpretation of the relevant price review clause in the context of a **price review arbitration seated in Singapore**, brought by a Japanese buyer under a long-term gas supply agreement.
- Represented a Turkish quick service restaurant franchisee against a French franchisor in an **ICC wrongful termination arbitration** seated in Paris involving trademark and intellectual property law.
- Defended a French shipbuilder against **annulment proceedings before the London High Court** brought by Libyan state body and assisted in **enforcement proceedings before Italian courts**.
- Represented a Swiss company in **negotiations** with a consortium of African States in the mining sector.
- Obtained **conservatory attachment** of opponent's bank accounts before French courts.
- Initiated **annulment proceedings before the Paris Court of Appeal** of an ICC arbitral award.
- Represented two international sub-contractors in an **ICC complex construction dispute** involving a large-scale, combined cycle power plant.
- Represented a Danish company in an **ICC arbitration against a sovereign state ministry** relating to museum antiquities and follow-up negotiations involving diplomatic officials.
- Acted as lead counsel in a consulting services contractual dispute in an **ad hoc arbitration** under French and California Law on behalf of a French company.

PRO BONO REPRESENTATIONS

- Kurt Wimmer Media Freedom Pro Bono Initiative
- Assist civil society organizations with preparation of report on the situation of lawyers defending journalists and issues of media freedom
- Research on French procedural law relating to the rights and obligations of a civil party representing victims in a French criminal proceeding against an individual for their role in wartime atrocities
- Assist with affirmative asylum applications on behalf of persecuted journalists to the U.S. Citizenship and Immigration Services
- Drafting a petition on behalf of a detained journalist to the United Nations Working Group on Arbitrary Detention
- Assisting civil society organizations with United Nations Human Rights Council Universal Period Review stakeholder reports on press freedom and freedom of expression in Vietnam and Cambodia
- Representing a non-profit company in a matter to obtain FOIA records before the Ninth Circuit

- Assisting non-governmental organizations with a United Nations Human Rights Council Universal Period Review stakeholder report on press freedom and freedom of expression in Cameroon
- Contribute to Public International Law & Policy Group Commentary on the International Criminal Court Office of the Prosecutor's Policy on Children
- Training Program on International Human Rights Law for the Tunisian Bar Association, in collaboration with the Canadian Bar Association and the International Development Law Organization
- Representing pro se plaintiff in a race discrimination, hostile work environment, and retaliation lawsuit in NY federal court.

LEADERSHIP & MEMBERSHIP

ICC Commission on Arbitration and ADR – Delegate (2022-Present)

ICC Commission Expedited Procedure Provisions Working Group – Working Group Member (2023-Present)

ArbitralWomen - Board Member (2020-Present), YAWP Board Liaison (2018-2022)

Campaign for Greener Arbitrations – Global Co-Chair (2024-Present), Former Global Vice-President (2022-2023), Drafter of Green Protocols (2020-2021)

ArabArb – Co-Founder and Board Member (2022-Present)

CPR Institute for Conflict Prevention & Resolution Y-ADR - Steering Committee Member, Sustainability Working Group, Diversity Working Group (2021-Present)

Arbitrator Intelligence - Advisor for Diversity & Inclusion (2021-Present)

American Bar Association, International Law Section – Member (2022-Present)

American Society of International Law – Member (2021-Present)

Rising Arbitrators Initiative – Member (2021-2022)

Paris Arab Arbitration Practitioners (PAAP) - Co-Founder (2015-2021)

SELECT SPEAKING ENGAGEMENTS

- The Use and Misuse of ESG in Investment Arbitration – Georgetown Law International Arbitration Society Arbitration Month 2024 (**Washington, D.C.**)
- Construction Projects Disputes in Algeria: How to Mitigate Your Risks – Covington & Burling LLP (**Virtual**)
- Next Generation Disputes: The Convergence of ESG, Labor, and Human Rights in International Arbitration and Beyond – Washington Arbitration Week 2023 (**Washington, D.C.**)
- Georgetown Law Women of Color Collective and Middle East and North African Law Students Association (MENALSA) BigLaw Diversity Panel (**Washington, D.C.**)
- Everything ESG 2023 Trends and Updates – ESG Disputes – Corporate Council Women of Color Conference 2023 (**Washington, D.C.**)
- Arbitration Academia – Women of Color in Arbitration (**Virtual**)
- Careers in International Arbitration – DC Bar Association – International Law Community (**Washington, D.C.**)
- Meet the Arbitral Institution Session with JAMS – ArbitralWomen (**Virtual**)
- French Arbitration Day – Georgetown International Arbitration Society – Georgetown Law (**Washington, D.C.**)
- Joining the Ranks of Arab American Lawyers – University of California – San Francisco Middle Eastern Law Society (**Virtual**)
- Greening Arbitration Panel – The Campaign for Greener Arbitrations at Paris Arbitration Week (**Paris**)
- MENA Women in the Law – The George Washington Middle East and North African Law Students Association (MENALSA) and Law Association for Women (GW L.A.W.) (**Washington, D.C.**)
- The Silala Case (Chile v. Bolivia) and the Relevance of ICJ Decisions in International Investment Arbitration – American Society of International Law (**Washington, D.C.**)
- The Environment, Climate Change and Renewable Energies and International Arbitration: An Update on Merits and Quantum – Washington Arbitration Week 2022 (**Washington, D.C.**)
- Washington Arbitration Week 2022 ArbitralWomen Panel – From Inception to Recovery: A Panorama of International Arbitration Featuring Women (**Washington, D.C.**)
- American Society for International Law and Freshfields Young Arbitrator Debate Series 2022 – Investor-State Dispute Settlement and Climate Change (**Washington, D.C.**)

- China Arbitration Week – CIETAC – 2022 ICSID Amendment Rules (**Virtual**)
- ArabArb Launch Event (**New York City**)
- Tunisian Bar Association, Canadian Bar Association, International Development Law Organization – Training Program on International Human Rights Law 2022 (**Virtual**)
- Africa Arbitration Academy – Greener Arbitrations, Mitigating Costs and Increasing Efficiency in a Hybrid World 2022 (**Virtual**)
- London VYAP and the European Committee of the CGA – Greener Arbitrations in Action: Junior Practitioners' Role in Implementing the Green Protocols 2022 (**Virtual**)
- American Bar Association International Law Section Annual Conference 2022 (**Washington, D.C.**)
- University of Pennsylvania Law International Arbitration Conference 2022 (**Philadelphia**)
- Georgetown Law International Arbitration Society Arbitration Month 2022 (**Washington, D.C.**)
- Washington Arbitration Week Second Edition 2022 – Pairs of Practitioners (**Washington, D.C.**)
- Chartered Institute of Arbitrators Nigeria Branch 2021 Annual Conference on Climate Change (**Virtual**)
- Arbitrator Intelligence: Assessing and Resolving Disparities in Arbitrator Appointments (**Virtual**)
- Africa Energy Arbitrators' Forum Training (PRETRAC) 2021 – Green Arbitration (**Virtual**)
- Paths to Partnership – Young Arbitral Women Practitioners (**Virtual**)
- Costs of Arbitration: From Pitching to Enriching – Young Arbitral Women Practitioners (**Virtual**)
- 15th Annual Juris Investment Treaty Conference – New Generation Model BITs (**Virtual**)
- The Campaign for Greener Arbitrations: Green Protocols Global Launch (**Virtual**)
- Women in Dispute Resolution: Navigating the New Normal After COVID-19 (**Virtual**)
- New York Arbitration Week Diversity Challenge (**New York**)
- Paris Arbitration Week: Blockchain Technology, Data Protection, and Cybersecurity (**Paris**)
- MACI Masters Seminar on Exequatur and Enforcement of Arbitral Awards (**Paris**)
- Women in Law Conference on Diversity, Inclusivity & Intersectionality – University of Vienna (**Vienna**)
- ICC YAF Middle East, North Africa & Turkey Regional Conference (**Cairo**)
- CI Arb European Branch 2018 Annual Conference on Ethical Rules (**Lisbon**)
- UNCITRAL Training Workshop for Ministries of Finance and Justice (**Algiers**)

SELECT PUBLICATIONS

- *Where Efficiency and Sustainability Meet: A Model Clause to Align In-House and External Counsel on Carbon Emissions Reduction* – Co-Authored with Michael McIlwrath – **Kluwer Arbitration Blog** (2023)
- *Lessons From UK-France Court Split on Arbitral Enforcement*
Co-Authored with Erin Thomas, Monique O'Donoghue, and Catherine Karia – **Law360** (2022)
- *New Generation Model BITs* – **Investment Treaty Arbitration and International Law – Vol. 15** (*Forthcoming*)
- *The Campaign for Greener Arbitration's Green Protocols: Actions Not Words*
Co-Authored with Lucy Greenwood and Christine Falcicchio – **Kluwer Arbitration Blog** (2021)
- *The Missing Link in Progress to Greater Diversity – Arbitrator Intelligence 2021 Diversity Campaign*
Co-Authored with Catherine Rogers, Amanda Lee, Fahira Brodlija, Kirsten Teo – **Kluwer Arbitration Blog** (2021)
- *Sustainability and Diversity in the Newly Virtual World of International Arbitration*
Co-Authored with Maguelonne de Brugière – **Kluwer Arbitration Blog** (2020)
- *The Impact of the Arab Spring on the International Arbitration Landscape* – **Kluwer Arbitration Blog** (2019)
- *Conflicting Perceptions Threats and Opportunities for Self-Regulation of Ethics in International Arbitration*
Co-Authored with James Clanchy – Issue 85(2) - **CI Arb International Journal of Arbitration, Mediation and Dispute Management** (2019)
- *The InfoSpan Saga: Preserving Jurisdictional Defenses, Asserting Counterclaims, and Compelling Arbitration from California to Dubai* - 2019/1 Edition – **International Journal of Arab Arbitration** (2019)
- *U.S. Supreme Court Holds That Individualized Employer-Employee Arbitration Agreements Must Be Enforced As Written* – **Kluwer Arbitration Blog** (2018)
- "Les inspections de concurrence" in **Editions Panthéon Assas** - Ed. Louis Vogel (2017)
- *The Evolution of Arbitration in the Arab World* – **Kluwer Arbitration Blog** (2015)
- "Les actions civiles de concurrence" in **Editions Panthéon Assas** – Ed. Louis Vogel (2013)